



General Assembly

Substitute Bill No. 5525

February Session, 2014



AN ACT CONCERNING CHILD PORNOGRAPHY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-196d of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) A person is guilty of possessing child pornography in the first
4 degree when such person knowingly possesses (1) fifty or more visual
5 depictions of child pornography, or (2) one or more visual depictions
6 of child pornography that depict the infliction or threatened infliction
7 of serious physical injury, or (3) (A) a series of images in electronic,
8 digital or other format, which is intended to be displayed
9 continuously, or a film or videotape, that depicts (i) more than one
10 child engaging in sexually explicit conduct, or (ii) more than one act of
11 sexually explicit conduct by one or more children, or (B) any
12 combination of a (i) series of images in electronic, digital or other
13 format, which is intended to be displayed continuously, (ii) film, or (iii)
14 videotape, which series, film or videotape each depicts a single act of
15 sexually explicit conduct by one child.

16 (b) In any prosecution for an offense under this section, it shall be an
17 affirmative defense that the acts of the defendant, if proven, would
18 constitute a violation of section 53a-196h.

19 (c) Possessing child pornography in the first degree is a class B
20 felony and any person found guilty under this section shall be
21 sentenced to a term of imprisonment of which five years of the
22 sentence imposed may not be suspended or reduced by the court.

23 Sec. 2. Section 53a-196e of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2014*):

25 (a) A person is guilty of possessing child pornography in the second
26 degree when such person knowingly possesses (1) twenty or more but
27 fewer than fifty visual depictions of child pornography, or (2) a series
28 of images in electronic, digital or other format, which is intended to be
29 displayed continuously, consisting of twenty or more but fewer than
30 fifty frames, or a film or videotape, consisting of twenty or more but
31 fewer than fifty frames, that depicts a single act of sexually explicit
32 conduct by one child.

33 (b) In any prosecution for an offense under this section, it shall be an
34 affirmative defense that the acts of the defendant, if proven, would
35 constitute a violation of section 53a-196h.

36 (c) Possessing child pornography in the second degree is a class C
37 felony and any person found guilty under this section shall be
38 sentenced to a term of imprisonment of which two years of the
39 sentence imposed may not be suspended or reduced by the court.

40 Sec. 3. Section 53a-196g of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective October 1, 2014*):

42 In any prosecution for a violation of section 53a-196d, as amended
43 by this act, 53a-196e, as amended by this act, 53a-196f or 53a-196h it
44 shall be an affirmative defense that (1) the defendant (A) possessed
45 fewer than three visual depictions, other than a series of images in
46 electronic, digital or other format which is intended to be displayed
47 continuously, or a film or videotape, of child pornography, (B) did not
48 knowingly purchase, procure, solicit or request such visual depictions
49 or knowingly take any other action to cause such visual depictions to

50 come into the defendant's possession, and (C) promptly and in good
 51 faith, and without retaining or allowing any person, other than a law
 52 enforcement agency, to access any visual depiction or copy thereof,
 53 took reasonable steps to destroy each such visual depiction or reported
 54 the matter to a law enforcement agency and afforded that agency
 55 access to each such visual depiction, or (2) the defendant possessed a
 56 visual depiction of a nude person under sixteen years of age for a bona
 57 fide artistic, medical, scientific, educational, religious, governmental or
 58 judicial purpose.

59 Sec. 4. Subdivision (13) of section 53a-193 of the general statutes is
 60 repealed and the following is substituted in lieu thereof (*Effective*
 61 *October 1, 2014*):

62 (13) "Child pornography" means any visual depiction including any
 63 photograph, film, videotape, picture or computer-generated image or
 64 picture, whether made or produced by electronic, digital, mechanical
 65 or other means, of sexually explicit conduct, where the production of
 66 such visual depiction involves the use of a person under sixteen years
 67 of age engaging in sexually explicit conduct, provided whether the
 68 subject of a visual depiction was a person under sixteen years of age at
 69 the time the visual depiction was created is a question to be decided by
 70 the trier of fact.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	53a-196d
Sec. 2	<i>October 1, 2014</i>	53a-196e
Sec. 3	<i>October 1, 2014</i>	53a-196g
Sec. 4	<i>October 1, 2014</i>	53a-193(13)

Statement of Legislative Commissioners:

In Section 2(a)(2), the phrase "consisting of twenty or more but fewer than fifty frames," was inserted after "film or videotape" for consistency with the reference to images in electronic, digital or other format.

JUD *Joint Favorable Subst.*